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32 CFR Ch. VI (7-1-02 Edition)

Compensation for a utilitarian object made by the claimant, such as a quilt or bookcase, is limited to the value of an item of similar quality.

(h) *Loss or damage to property due to negligence of the claimant.* Negligence is a failure to exercise the degree of care expected under the circumstances that is the proximate cause of the loss. Losses due, in whole or in part, to the negligence of the claimant, the claimant's spouse, child, houseguest, employee, or agent are not compensable.

(i) *Business property.* Losses of items acquired for resale or use in a private business are not compensable. If property is acquired for both business and personal use, compensation will not be allowed if business use is substantial, or is the primary purpose for which the item was purchased, or if the item is designed for professional use and is not normally intended for personal use.

(j) *Motor vehicles.* Collision damage is not payable unless it meets the criteria for payment as property used for the benefit of the Government as established in § 751.6(c)(1).

(k) *Violation of law or directives.* Property acquired, possessed, or transported unlawfully or in violation of competent regulations or directives. This includes vehicles, weapons, or property shipped to accommodate another person, as well as property used to transport contraband.

(l) *Sales tax.* Sales taxes associated with repair or replacement costs will not be considered unless the claimant provides proof that the sales tax was actually paid.

(m) *Appraisal fees.* An appraisal, as distinguished from an estimate of replacement or repair, is defined as a valuation of an item provided by a person who is not in the business of selling or repairing that type of property. Normally, claimants are expected to obtain appraisals on expensive items at their own expense.

(n) *Quantities of property not reasonable or useful under the circumstances are not compensable.* Factors to be considered are claimant's living conditions, family size, social obligations, and any particular need to have more than average quantities, as well as the actual circumstances surrounding the acquisition and loss.

(o) *Intangible Property,* such as Bankbooks, Checks, Promissory Notes, Stock Certificates, Bonds, Bills of Lading, Warehouse Receipts, Baggage Checks, Insurance Policies, Money Orders, and Traveler's Checks are not Compensable.

(p) *Property Owned by the United States,* Except where the Claimant is Responsible to an Agency of the Government other than the DON.

(q) *Contractual coverage.* Losses, or any portion thereof, that have been recovered or are recoverable pursuant to contract are not compensable.

§ 751.8 Adjudicating authorities.

(a) *Claims by Navy personnel.* (1) The following are authorized to adjudicate and authorize payment of personnel claims up to \$40,000.00:

(i) The Judge Advocate General;

(ii) Deputy Judge Advocate General;

(iii) Any Assistant Judge Advocate General;

(iv) The Deputy Assistant Judge Advocate General (Claims and Tort Litigation); and

(v) Commanding officers of Naval Legal Service Offices.

(2) The Staff Judge Advocate attached to Naval Supply Center, Oakland is authorized to adjudicate and pay claims up to \$25,000.00.

(3) The Staff Judge Advocate attached to Naval Station, Panama Canal is authorized to adjudicate and pay claims up to \$10,000.00.

(4) The following are authorized to adjudicate and authorize payment of personnel claims up to \$5,000.00:

(i) Officers in charge of Naval Legal Service Office Detachments;

(ii) The Staff Judge Advocate attached to Naval Station, Keflavik; and

(iii) Any personnel attached to a Naval Legal Service Office when specifically designated by the commanding officer of that Naval Legal Service Office.

(5) Any individual, when personally designated by the Judge Advocate General, may be authorized to adjudicate and authorize payment of personnel claims up to any delegated amount, not to exceed \$40,000.00.

(b) *Claims by Marine Corps personnel.*

(1) The following individuals are authorized to adjudicate and authorize

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payment of personnel claims up to \$40,000.00:

- (i) Commandant of the Marine Corps;
 - (ii) Deputy Chief of Staff, Manpower and Reserve Affairs Department;
 - (iii) Director, Human Resources Division;
 - (iv) Head, Personal Affairs Branch;
 - (v) Deputy Head, Personal Affairs Branch;
 - (vi) Head, Personnel Claims Section; and
 - (vii) Any individual, when personally designated by the Commandant of the Marine Corps, may be authorized to adjudicate and authorize payment of personnel claims up to any delegated amount, and not to exceed \$40,000.00.
- (2) The following individuals are authorized to adjudicate and authorize payment of personnel claims up to \$25,000.00:
- (i) Head, Adjudication Unit;
 - (ii) Head, Carrier Recovery Unit; and
 - (iii) Head, Administration Unit.

§ 751.9 Presentment of claim.

(a) *General.* A claim shall be submitted in writing and, if practicable, be presented to the claims office or personal property office serving the installation where the claimant is stationed, or nearest to the point where the loss or damage occurred. If submission in accordance with the foregoing is impractical under the circumstances, the claim may be submitted in writing to any installation or establishment of the Armed Forces which will forward the claim to the appropriate Navy or Marine Corps claims office for processing. To constitute a filing under this regulation, a claim must be presented in writing to one of the military departments. Claims that are incomplete will not be refused and shall be logged in as received. Claimants submitting such claims, however, shall be informed in writing that properly completed forms or necessary substantiation must be received within a fixed period of time (normally 30 days), otherwise the claim will be denied or paid only in the amount substantiated.

(b) *Statute of limitations.* A claim must be presented in writing to a military installation within 2 years after it accrues. This requirement is statutory and may only be waived if a claim ac-

crues during armed conflict, or armed conflict intervenes before the 2 years have run, and good cause is shown. In this situation, a claim may be presented not later than 2 years after the end of the armed conflict. A claim accrues on the day the claimant knows or should know of the loss. For losses that occur in shipment of personal property, normally the day of delivery or the day the claimant loses entitlement to storage at Government expense (whichever occurs first) is the day the claim accrues. If a claimant's entitlement to Government storage terminates, but the property is later delivered at Government expense, the claim accrues on delivery. In computing the 2 years, exclude the first day (day of delivery or incident) and include the last day. If the last day falls on a non-workday, extend the 2 years to the next workday.

(c) *Substantiation.* The claimant is responsible for substantiating ownership or possession, the fact of loss or damage, and the value of property. Claimants are expected to report losses promptly. The greater the delay in reporting a loss, the more substantiation the claimant is expected to provide.

(1) *Obviously damaged or missing inventory items that are not reported at delivery.* Claimants are expected to list missing inventory items and obvious damage at time of delivery. Claimants who do not should be questioned. Obviously some claimants will simply not notice readily apparent damage. If, however, the claimant cannot provide an explanation or lacks credibility, payment should be denied based on lack of evidence that the item was lost or damaged in shipment.

(2) *Later-discovered shipment loss or damage.* A claimant has 70 days to unpack, discover, and report loss and damage that is not obvious at delivery. In most cases, loss and damage that is discovered later and reported in a timely manner should be deemed to have been incurred in shipment.

(3) *Damage to POV's in shipment.* Persons shipping POV's are expected to list damage on DD Form 788 (Private Vehicle Shipping Document for Automobile) when they pick up the vehicle. Obvious external damage that is not listed is not payable. Damage the claimant could reasonably be expected